

### **REMARKS**

Claims 1-29 are pending in the application, claims 30-34 having been previously cancelled. All pending claims are rejected.

#### **Claim amendments**

Claim 1 is amended to more positively recite the elements that the applicant considers to be the invention. Specifically, the "at least two instruments" are moved to the preamble, since they are workpieces and not an element of the invention. The description of the "instrument holder" in the body is amended to have it "hold the instruments in a downwardly-directed manner", which is supported by the description of the holder ring 15 at the paragraph bridging pages 13 and 14, as well as Fig.3.

Further, claim 1 is amended to remove the phrase "at least one" from the description of the jet orifice and also from the wash ring. As both of these elements are introduced used the open-ended term "comprising," the "at least one" is superfluous. Because of this change, there are amendments to dependent claims 5, 10, 13-15, 18, 19 and 29 to provide appropriate antecedent basis.

#### **Rejections under 112, first paragraph**

The Examiner has rejected claim 1 as previously amended, on the basis that the specification fails to support the presence of attachments at predetermined positions on the instrument holder. Applicant respectfully traverses, but has removed the specific phrase introduced previously, that is, "*which are attached to the instrument holder at predetermined positions so as to be directed downwards*", because the new amendments to claim 1 are fully supported by the specification and the drawings, particularly, Fig. 3.

#### **Rejections under 35 USC §103**

The Examiner has rejected claims 1-29 as being obvious over the US Patent 3,552,212 to Ohlin ("Ohlin '212") in view of US Patent 5650122 to Harris ("Harris '122").

In making this rejection, the Examiner states that Ohlin '212 teaches many of the claimed elements, but admits that Ohlin '212 fails to disclose a jet orifice that sprays wash fluid at the instruments to be cleaned. To provide the missing element, the Examiner introduces Harris '122 to state that it would have been obvious to modify Ohlin '212 by using jet orifices directed at an angle in the Ohlin '212 wash ring to

enhance the washing process. The Examiner also indicates that it would have been obvious to one of ordinary skill to modify the instrument holder and the washing system of Ohlin '212 to permit two or more instruments to be washed. Applicant respectfully traverses, for at least two reasons.

First, the combination of Ohlin '212 and Harris '122, at least in the manner suggested by the Examiner, would not be within the scope of one of ordinary skill in this art. The Examiner has not made any determination of what constitutes ordinary skill in this art, although that is a requirement of the *Graham v John Deere* test for obviousness. It is applicant's position that even though the device of the present invention is part of a sophisticated scientific analyzer, the instrument-washing portion claimed herein is a basic mechanical device and the level of ordinary skill is not high.

Second, attention to Ohlin '212, Col. 3, lines 8 to 45, makes it clear that the cleaning action is achieved through a small annular space 27 between the instrument 19 and the bore 26 in the collar 25. Particularly, lines 33-45 indicate that the area of the annular space 27 must be controlled between a relatively tight range, since a "too large" area results in inadequate contaminant removal and a "too small" area results in wiping contaminants off onto the collar. The annular area must be "just right." When a single instrument is intended to be cleaned, "just right" might be reliably obtained, as there is a definable annulus. But claim 1, as now amended, requires a washing device for at least two instruments which pass through the wash ring, a situation that renders the term "annular" indefinite. At Fig. 14 and the accompanying text (at Col. 14, line 57, to Col. 15, line 45), Harris '122 might teach the simultaneous washing of a plurality of aspiration tubes with a corresponding plurality of wash tubes 484, but the aspiration tubes are so spaced apart that each aspiration tube has its own wash tube and neither the streams of wash fluid nor the aspiration tubes interact, so the washing of a cluster of instruments is not really taught. Also, the Harris '122 device does not have a washing device that is "separate from and movable in relation to the instrument holder" as claim 1 requires.

In summary, faced with the problem of cleaning two or more instruments mounted in an instrument holder with a washing device that surrounds the instruments and moves relative to the instrument holder, the person having ordinary skill, probably a bachelor's level mechanical engineer, would not look to Ohlin '212, Harris '122 or the

combination of them to provide a solution to the problem. With claim 1 allowable, all remaining claims are allowable as dependent claims.

Conclusion

The Applicant respectfully submits that the present application is now in condition for allowance and such action is earnestly requested. If a telephone interview is required to resolve any further issues, such a call from the Examiner is respectfully requested.

Respectfully submitted,

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